

REMARKS

In the Office Action issued March 7, 2007, claims 1-7 and 11-18 were allowed. Claims 8 and 10 were rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 7,131,049 to Kim et al. Claim 9 was objected to as being dependent upon a rejected base claim, but was indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding the Information Disclosure Statement discussed by the Examiner, the Applicant believes that all references listed in the specification have been cited in the Information Disclosure Statement filed March 17, 2004.

Regarding the rejection of claims 8 and 10, the applicant respectfully submits that these claims are not anticipated by Kim. Kim discloses a transmission/reception apparatus and method for performing packet retransmission considering a channel environment in a CDMA mobile communication system. In particular, Kim discloses that the transmitting side estimates the condition of transmission channel based upon a HARQ control signal sent from the receiving side, changes its modulation type to a modulation type to be used at retransmission according to the condition of the transmission channel, and retransmits data according to the changed modulation type.

The Examiner states that Kim discloses the estimating means for estimating throughput on the packet receiving side at col. 12, line 63 to col. 13, line 7. However, this portion of Kim discloses the transmitting side estimating the condition of the transmission channel based upon the HARQ control signal. This does not disclose or suggest estimating the throughput on the packet receiving side at all. As disclosed by Kim, HARQ is a link control technique for correcting an error by retransmitting the

errored data upon occurrence of a packet error at initial transmission. The HARQ control signal controls this retransmission. By contrast, claim 8, for example, requires estimating throughput on the receiving side. The HARQ control signal disclosed by Kim provides no information about the throughput on the receiving side. Thus, the disclosure by Kim of estimating the condition of the transmission channel based upon the HARQ control signal does not disclose or suggest the requirement of claim 8 of an estimating means for estimating throughput on the packet receiving side.

The Examiner states that Kim discloses the control means for adaptively controlling a target error rate so as to maximize the throughput at col. 3, lines 11-38. However, this portion of Kim discloses the improvement of data characteristics by encoding and interleaving and by using an Adaptive Modulation/Coding Scheme (AMCS). This portion of Kim does not disclose or suggest adaptively controlling a target error rate so as to maximize the throughput.

Thus, Kim does not disclose or suggest the requirements of claim 8 for estimating means for estimating throughput on the packet receiving side and for control means for adaptively controlling a target error rate so as to maximize the throughput.

Therefore, claim 8, and claims 9 and 10, which depend therefrom, are not anticipated by Kim and are allowable.

Each of the claims now pending in this application is believed to be in form for allowance. Accordingly, reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

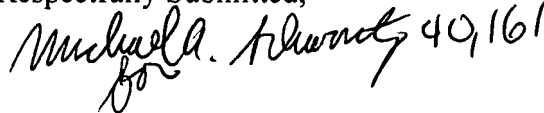
Additional Fees:

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 50-4047 (7052042001).

Conclusion

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,

 40161

Edward A. Pennington, Reg. No. 32,588

Dated: July 6, 2007

Bingham McCutchen LLP
2020 K Street, N.W.
Washington, D.C. 20006
(202) 373-6000 Telephone
(202) 373-6001 Facsimile